



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2018-0003; Notice 2]

Forest River, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: Forest River, Inc. (Forest River), has determined that certain model year (MY) 2017-2018 Forest River buses and school buses do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 205, Glazing Materials. Forest River filed two separate noncompliance reports, both dated November 30, 2017. Forest River then petitioned NHTSA on December 12, 2017, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces the grant of this petition.

FOR FURTHER INFORMATION CONTACT: Leroy Angeles, Office of Vehicle Safety Compliance, NHTSA, telephone (202) 366-5304, facsimile (202) 366-3081.

SUPPLEMENTARY INFORMATION:

I. Overview

Forest River has determined that certain MY 2017-2018 Forest River buses and school buses do not fully comply with FMVSS No. 205, *Glazing Materials* (49 CFR 571.205). Forest River filed two separate noncompliance reports, both dated November 30, 2017, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Forest River then petitioned NHTSA on December 12, 2017, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49

CFR part 556, for an exemption from the notification and remedy requirements of 49 U.S.C.

Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety.

II. Buses Involved

Approximately 544 MY 2017-2018 Forest River school buses and approximately 2,121 MY 2017-2018 Forest River buses, manufactured between June 26, 2017, and November 10, 2017, are potentially involved. The following Forest River buses are involved:

School Buses

- Starcraft Allstar XL, Quest XL and Prodigy

Buses

- Starcraft Allstar XL, Allstar, Starlite, XLT, Starquest, and Allstar MVP
- StarTrans President, PS2, Senator, Senator II, Candidate, and Candidate II
- Glaval Apollo, Commute, Concorde II, Entourage, Legacy, Primetime, Sport, Titan II, Titan II LF and Universal
- Elkhart Coach ECII

III. Noncompliance:

Forest River explains that the noncompliance is that the subject buses were equipped with curbside entry door glass that does not fully comply with paragraph S6 of FMVSS No. 205. Specifically, the curbside entry door glass has the AS3 glazing marking when it should have been marked with the AS2 glazing marking.

IV. Rule Requirements

Section S6 of FMVSS No. 205, titled "Certification and Marking" includes the requirements relevant to this petition:

- A prime glazing material manufacturer must certify, in accordance with 49 U.S.C. 30115, each piece of glazing material to which this standard applies is designed as:
 - a. A component of any specific motor vehicle or camper; or
 - b. To be cut into components for use in motor vehicles or items of motor vehicle equipment.
- A prime glazing manufacturer certifies its glazing by adding to the marks required by section 7 of ANSI/SAE Z26.1-1996, in letters and numerals of the same size, the symbol “DOT” and a manufacturer’s code mark that NHTSA assigns to the manufacturer.
- NHTSA will assign a code mark to a manufacturer after the manufacturer submits a written request to the Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration. The request must include the company name, address, and a statement from the manufacturer certifying its status as a prime glazing manufacturer as defined in paragraph S4.
- A manufacturer or distributor who cuts a section of glazing material to which this standard applies, for use in a motor vehicle or camper, must:
 - a. Mark that material in accordance with section 7 of ANSI/SAE Z26.1-1996; and
 - b. Certify that its product complies with this standard in accordance with 49 U.S.C. 30115.

V. Summary of Forest River's Petition

Forest River described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety. In support of its petition, Forest River submitted the following arguments:

1. As an initial matter, the noncompliance does not present a safety risk because it has no effect on the structure, performance, or safety of the glass. That is, the noncompliance relates solely to the glass' markings, specifically the use of the marking "AS3," instead of "AS2."
2. The glass required for the subject buses and school buses must meet the requirements of ANSI 26.1-1996 AS2. Forest River requested that a sample of the glass be tested to ensure its compliance with all applicable standards. The test results have affirmed that the glass indeed meets ANSI 26.1-1996 AS2's requirements and is compliant for the designed position in which it is applied.
3. Forest River is enclosing copies of statements from the glass manufacturer Cleer Vision, and test data confirming the glass' compliance with ANSI and FMVSS No. 205's performance standards.
4. Forest River stated that the agency has previously granted numerous petitions for determinations of inconsequential noncompliance in regard to FMVSS No. 205, including petitions involving mismarkings similar to the instant matter. See the following recent examples:
 - a. Mitsubishi Motors North America, Inc. Petition, 80 FR 72482 (November 19, 2015) (involving rear door windows marked with the model number "M66" instead of the correct "M131");
 - b. Custom Glass Solutions Upper Sandusky Corporation Petition, 79 FR 49833 (January 23, 2015) (involving laminated glass panes mistakenly marked as "tempered" and with the incorrect manufacturer's DOT number, model number, and manufacturer's trademark).
 - c. Mitsubishi Motors North America, Inc. Petition, 79 FR 49833 (August 22, 2014) (involving rear door windows marked with the model number "M13P" instead of the correct "M129");
 - d. General Motors LLC Petition, 79 FR 23402 (April 28, 2014) (involving quarter windows marked as "AS2" instead of the correct "AS3").

Forest River concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

Forest River's complete petition and all supporting documents are available by logging onto the Federal Docket Management System (FDMS) website at: <https://www.regulations.gov> and following the online search instructions to locate the docket number listed in the title of this notice.

VI. NHTSA's Analysis

NHTSA has reviewed Forest River's petition and agrees with Forest River that the subject noncompliance is inconsequential to motor vehicle safety. The agency believes that the true measure of inconsequentiality to motor vehicle safety in this case is that the mismarking of the glazing material has no effect on the operational safety of the subject buses. This noncompliance to the labeling requirements in FMVSS No. 205 will have an inconsequential effect on motor vehicle safety because:

Forest River's petition included letters from Cleer Vision, stating that the glass inadvertently marked AS3 does in fact meet all requirements of AS2 certification including, but not limited to, the visual light transmittance being 70 percent or greater. Cleer Vision provided a Certificate of Conformity from Guardian Industries certifying that the float glass products they manufacture comply with applicable FMVSS specifications with respect to thickness, optics, inclusions, and transmittance. Guardian Industries' provided data showing the average visible light transmittance as 80.03 percent, thus greater than the minimum 70 percent for AS2.

ANSI Z26.1-1996 requires that all AS3 tempered glass pass the ball impact test, fracture test, and the shot bag impact test. In addition to AS3 tempered glass requirements, Forest River's AS2 tempered glass must also meet the light stability, luminous transmittance, and abrasion resistance requirements set forth in ANSI Z26.1-1996 for AS2 tempered glass. Since Forest River's petition focused largely on luminous transmittance, NHTSA contacted Forest River requesting test data confirming that the subject glass meets all the requirements set forth in ANSI Z26.1-1996 for AS2 tempered glass.

In response, Forest River provided a test report documenting the results of testing to all of the requirements for AS2 tempered glass. NHTSA reviewed Forest River's report and verified that the subject glass meets the performance requirements set forth in ANSI Z26.1-1996 for AS2 tempered glass incorporated by reference in FMVSS No. 205.

The agency contacted Forest River on April 2, 2018, asking Forest River what they will do to ensure the noncompliance does not happen again in the future. In response, Forest River stated that they have implemented a triple verification process between the supplier and Forest River to further prevent future occurrences.

VII. NHTSA's Decision

In consideration of the foregoing analysis, NHTSA has decided that Forest River has met its burden of persuasion that the FMVSS No. 205 noncompliance is inconsequential to motor vehicle safety. Accordingly, Forest River's petition is hereby granted and Forest River is exempted from the obligation of providing notification of, and a remedy for, the subject noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to

exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject buses that Forest River no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant buses under their control after Forest River notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Michael A. Cole,

Acting Director, Office of Vehicle Safety Compliance.

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